

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2007-1845-IHW-E TCEQ ID: RN104634472 CASE NO.: 34977
RESPONDENT NAME: BRENDA LEWIS

Page 1 of 2

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input checked="" type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input checked="" type="checkbox"/> INDUSTRIAL HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATIONS OCCURRED: West side of United States Highway 281, two miles south of Premont, Jim Wells County</p> <p>TYPE OF OPERATION: Property previously used for a crop dusting operation business</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired October 26, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST:</p> <p style="margin-left: 20px;">TCEQ Attorney: Mr. Gary K. Shiu, Litigation Division, MC R-12, (713) 422-8916 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019</p> <p style="margin-left: 20px;">TCEQ Enforcement Coordinator: Mr. John Shelton, Waste Enforcement Section, MC 128, (512) 239- 2563</p> <p style="margin-left: 20px;">TCEQ Regional Contact: Mr. Brad Genzer, Corpus Christi Regional Office, MC R-14, (361) 825-3106</p> <p style="margin-left: 20px;">Respondent: Ms. Brenda Lewis, P.O. Box 270045, Flower Mound, Texas 75027</p> <p style="margin-left: 20px;">Respondent's Attorney: Mr. Walter D. James III, Vineyard Centre I, 1450 Hughes Road, Suite 101, Grapevine, Texas 76051</p>		

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p> <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review </p> <p>Date of Complaint Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: March 23, 2007</p> <p>Date of NOE Relating to this Case: September 12, 2007</p> <p>Background Facts: The EDRP was filed April 14, 2008. The Respondent filed an answer and the case was referred to SOAH. Settlement was achieved and a signed Agreed Order was received on August 13, 2009.</p> <p>Current Compliance Status: The Site has been referred to the Commission's Remediation Division to perform the cleanup of the Site.</p> <p>IHW: Failed to prevent the unauthorized disposal of hazardous waste at the Site. Soil samples indicated the presence of Aldrin (390 ug/Kg) and Dieldrin (1500 ug/Kg) which exceeded levels protective of human health and environmental receptors [30 TEX. ADMIN. CODE § 335.4].</p>	<p>Total Assessed: \$40,000</p> <p>Total Deferred: \$38,800</p> <p> <input type="checkbox"/> Expedited Order <input checked="" type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset </p> <p>Total Paid/Due to General Revenue: \$100/\$1,100</p> <p>The Respondent paid \$100 of the undeferred administrative penalty. The remaining amount of \$1,100 shall be payable in 11 monthly payments of \$100 each.</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor </p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor </p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p> <p>Findings Order Justification: Human health or the environment has been exposed to pollutants which exceed levels that are protective.</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Site has been referred to the Commission's Remediation Division to conduct the cleanup of the Site.</p> <p>Ordering Provisions:</p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> 1. Immediately, ensure that no additional hazardous waste is disposed at the Site. 2. Within 30 days, submit written certification demonstrating compliance with the above Ordering Provision.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision November 6, 2007

TCEQ

DATES	Assigned	24-Sep-2007	Screening	14-Nov-2007	EPA Due	11-Nov-2007
	PCW	14-Nov-2007				

RESPONDENT/FACILITY INFORMATION

Respondent	Brenda Lewis		
Reg. Ent. Ref. No.	RN104634472		
Facility/Site Region	14-Corpus Christi	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	34977	No. of Violations	1
Docket No.	2007-1845-IHW-E	Order Type	Findings
Media Program(s)	Industrial and Hazardous Waste	Enf. Coordinator	Dana Shuler
Multi-Media		EC's Team	Enforcement Team 7
Admin. Penalty \$	Limit Minimum	\$0	Maximum
			\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$40,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History 0% Enhancement **Subtotals 2, 3, & 7** **\$0**

Notes: There are no previous NOV's at the site for the past five years.

Culpability No 0% Enhancement **Subtotal 4** **\$0**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply 0% Reduction **Subtotal 5** **\$0**

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes: The Respondent does not meet the good faith criteria.

Total EB Amounts **\$1,482** 0% Enhancement* **Subtotal 6** **\$0**
Approx. Cost of Compliance **\$20,000** *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$40,000**

OTHER FACTORS AS JUSTICE MAY REQUIRE

0%

Adjustment **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount **\$40,000**

STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty **\$40,000**

DEFERRAL

0%

Reduction Adjustment **\$0**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

No deferral is recommended for Findings Orders.

PAYABLE PENALTY **\$40,000**

Screening Date 14-Nov-2007

Docket No. 2007-1845-IHW-E

PCW

Respondent Brenda Lewis

Policy Revision 2 (September 2002)

Case ID No. 34977

PCW Revision November 6, 2007

Reg. Ent. Reference No. RN104634472

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Dana Shuler

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

There are no previous NOVs at the site for the past five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 0%

Screening Date 14-Nov-2007 Respondent Brenda Lewis Case ID No. 34977 Reg. Ent. Reference No. RN104634472 Media [Statute] Industrial and Hazardous Waste Enf. Coordinator Dana Shuler Violation Number <input type="text" value="1"/>	Docket No. 2007-1845-IHW-E PCW <i>Policy Revision 2 (September 2002)</i> <i>PCW Revision November 6, 2007</i>																		
Rule Cite(s) <input style="width: 100%;" type="text" value="30 Tex. Admin. Code § 335.4"/>																			
Violation Description <input style="width: 100%;" type="text" value="Failed to prevent the unauthorized discharge of hazardous waste at the site, as documented during an investigation conducted on March 23, 2007. Specifically, the property owned by the Respondent has been contaminated by pesticides managed at the site for crop dusting operations which ceased over 20 years ago. Soil samples taken at the site indicate the presence of Aldrin (390 ug/Kg) and Dieldrin (1500 ug/Kg). Aldrin and Dieldrin are listed hazardous wastes with the codes P004 and P037, respectively."/>																			
Base Penalty <input style="width: 100%;" type="text" value="\$10,000"/>																			
>> Environmental, Property and Human Health Matrix																			
OR	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 15%;">Release</th> <th colspan="3" style="text-align: center;">Harm</th> <th rowspan="2" style="width: 15%;"></th> </tr> <tr> <th></th> <th style="width: 20%;">Major</th> <th style="width: 20%;">Moderate</th> <th style="width: 20%;">Minor</th> </tr> </thead> <tbody> <tr> <td>Actual</td> <td style="text-align: center;">x</td> <td></td> <td></td> <td rowspan="2" style="vertical-align: bottom;"> Percent <input style="width: 50%;" type="text" value="50%"/> </td> </tr> <tr> <td>Potential</td> <td></td> <td></td> <td></td> </tr> </tbody> </table>	Release	Harm					Major	Moderate	Minor	Actual	x			Percent <input style="width: 50%;" type="text" value="50%"/>	Potential			
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>> Programmatic Matrix																			
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Matrix Notes	Human health or the environment has been exposed to pollutants which exceed levels that are protective of human health and environmental receptors as result of this violation.																		
Adjustment <input style="width: 100%;" type="text" value="\$5,000"/>																			
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Violation Events																			
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Violation Base Penalty <input style="width: 100%;" type="text" value="\$40,000"/>																			
Economic Benefit (EB) for this violation																			
<table style="width: 100%;"> <tr> <td style="width: 50%;"> Estimated EB Amount <input style="width: 90%;" type="text" value="\$1,482"/> </td> <td style="width: 50%;"> Violation Final Penalty Total <input style="width: 90%;" type="text" value="\$40,000"/> </td> </tr> </table>		Estimated EB Amount <input style="width: 90%;" type="text" value="\$1,482"/>	Violation Final Penalty Total <input style="width: 90%;" type="text" value="\$40,000"/>																
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This violation Final Assessed Penalty (adjusted for limits) <input style="width: 100%;" type="text" value="\$40,000"/>																			

Economic Benefit Worksheet

Respondent Brenda Lewis

Case ID No. 34977

Reg. Ent. Reference No. RN104634472

Media Industrial and Hazardous Waste

Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal	\$20,000	23-Mar-2007	14-Sep-2008	1.5	\$1,482	n/a	\$1,482
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to properly remediate contaminated soils on site. Date Required is the date of the investigation and Final Date is the expected date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$20,000

TOTAL

\$1,482

Compliance History

Customer/Respondent/Owner-Operator:	CN602851636	LEWIS, BRENDA	Classification: AVERAGE	Rating: 3.01
Regulated Entity:	RN104634472	LEWIS PROPERTY	Classification: AVERAGE BY DEFAULT	Site Rating: 3.01
ID Number(s):	INDUSTRIAL AND HAZARDOUS WASTE GENERATION		EPA ID	TXR000064444
Location:	2 MILES SOUTH OF PREMONT ON HWY 281		Rating Date: September 01 07 Repeat Violator: NO	
TCEQ Region:	REGION 14 - CORPUS CHRISTI			
Date Compliance History Prepared:	November 26, 2007			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	November 11, 2002 to November 11, 2007			

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Dana Shuler Phone: (512) 239-2505

Site Compliance History Components

- | | |
|--|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | No |
| 3. If Yes, who is the current owner? | N/A |
| 4. If Yes, who was/were the prior owner(s)? | N/A |
| 5. When did the change(s) in ownership occur? | N/A |

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
1 09/17/2007 (556059)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- F. Environmental audits.
N/A
- G. Type of environmental management systems (EMSs).
N/A
- H. Voluntary on-site compliance assessment dates.
N/A
- I. Participation in a voluntary pollution reduction program.
N/A
- J. Early compliance.
N/A
- Sites Outside of Texas
N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
BRENDA LEWIS;
RN104634472

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BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2007-1845-IHW-E

At its _____ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Brenda Lewis (the "Respondent") under the authority of TEX. WATER CODE ch. 7 and TEX. HEALTH & SAFETY CODE ch. 361. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent, represented by Walter D. James III of the law firm Walter D. James III, PLLC, presented this agreement to the Commission.

Respondent understands that she has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Agreed Order represents the complete and fully-integrated agreement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. Respondent owns property previously used for a crop dusting operation business on the west side of United States Highway 281, two miles south of Premont, Jim Wells County, Texas (the "Site"). According to the Jim Wells County Appraisal District, Jim Wells County, Texas, the legal description of the Site is: "HALDEMAN S/D SEELIGSON RA PT LTS 17-18 BLK 11 0001.000; Account Number 1156019900200."

2. The Site involved the management and disposal of hazardous waste as defined in TEX. HEALTH & SAFETY CODE ch. 361.
3. During an inspection conducted on March 23, 2007, a TCEQ Corpus Christi Regional Office investigator documented that Respondent allowed, suffered or permitted the disposal of hazardous waste at the Site. Specifically, soil samples collected at the Site indicate the presence of Aldrin (390 ug/Kg) and Dieldrin (1500 ug/Kg) exceeding levels that are protective of human health and environmental receptors. Aldrin and Dieldrin are classified as hazardous waste by the TCEQ, with assigned hazardous waste codes P004 and P037, respectively.
4. Respondent received notice of the violation on or about September 17, 2007.
5. The Executive Director recognizes that the Site has been referred to the Commission's Remediation Division to conduct the cleanup of the Site.

CONCLUSIONS OF LAW

1. As evidenced by Findings of Fact Nos. 1 and 2, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE § 7.002, TEX. HEALTH & SAFETY CODE ch. 361, and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, Respondent allowed, suffered or permitted the disposal of hazardous waste at the Site, in violation of 30 TEX. ADMIN. CODE § 335.4.
3. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Respondent for violations of state statutes within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
4. An administrative penalty in the amount of forty thousand dollars (\$40,000.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Financial Assurance Section of the Commission's Financial Administration Division reviewed the financial documentation submitted by Respondent and determined that Respondent is unable to pay part of the administrative penalty. Therefore, thirty-eight thousand eight hundred dollars (\$38,800.00) of the penalty is deferred contingent upon Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his option, require Respondent to pay all or part of the deferred penalty.

Respondent paid one hundred dollars (\$100.00) of the undeferred administrative penalty of one thousand two hundred dollars (\$1,200.00). The remaining amount of one thousand one hundred dollars (\$1,100.00) shall be payable in 11 monthly payments of one hundred dollars (\$100.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the acceleration of any remaining balance constitutes the failure by Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. It is, therefore, ordered by the TCEQ that Respondent pay an administrative penalty as set forth in Conclusion of Law No. 4 above. The payment of this administrative penalty and Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violation set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Brenda Lewis; Docket No. 2007-1845-IHW-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. Respondent shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Agreed Order, Respondent shall ensure that no additional hazardous waste is disposed at the Site;
 - b. Within 30 days after the effective date of this Agreed Order, Respondent shall submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate

compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Respondent shall submit copies of documentation necessary to demonstrate compliance with these Ordering Provisions to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Brad Genzer, Waste Section Manager
Corpus Christi Regional Office
Texas Commission on Environmental Quality
6300 Ocean Drive, Suite 1200
Corpus Christi, Texas 78412-5503

3. The provisions of this Agreed Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Site referenced in this Agreed Order.
4. If Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Respondent's failure to comply is not a violation of this Agreed Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written

- and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Respondent if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
 7. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
 8. This Agreed Order, issued by the Commission, shall not be admissible against Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
 9. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
 10. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Order to Respondent, or three days after the date on which the Commission mails notice of the Order to Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

[Signature]
For the Executive Director

9/23/09
Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of Brenda Lewis, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on Brenda Lewis' compliance history;
- Greater scrutiny of any permit applications submitted by Brenda Lewis
- Referral of this case to the Attorney General's office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against Brenda Lewis;
- Automatic referral to the Attorney General's Office of any future enforcement actions against Brenda Lewis; and
- TCEQ seeking other relief as authorized by law.

In addition, I understand that any falsification of any compliance documents may result in criminal prosecution.

Brenda Lewis
Signature

August 13, 2009
Date

Brenda Lewis
Name (Printed or typed)
Brenda Lewis

Property Owner
Title